

CHAPTER 1086

WATER SERVICES WITHIN TWO MILES OF A CITY

H.F. 2192

AN ACT relating to rural water providers by making changes to water service requirements.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 357A.1, Code 2014, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. “Rural water association” or “association” means a rural water association organized and incorporated as a cooperative association under chapter 499 or as a nonprofit corporation under chapter 504.

Sec. 2. Section 357A.2, subsections 3 and 4, Code 2014, are amended to read as follows:

3. Water services, other than water services provided as of April 1, 1987, shall not be provided within two miles of the limits of a city by a rural water district incorporated under this chapter ~~or chapter 504~~ except as provided in this section. Except as otherwise provided in this chapter, a rural water association shall not provide water services within two miles of a city, other than water services provided as of July 1, 2014.

4. a. ~~A rural water district incorporated under this chapter or chapter 504 or rural water association~~ may give notice of intent to provide water service to a new area within two miles of a city by submitting a water plan to the city. This subsection shall not apply in the case of a district or association extending service to new customers or improving existing facilities within existing district or association service areas or existing district or association agreements. If water service is provided by a city utility established under chapter 388, the water plan shall be filed with the governing body of that city utility. The district or association shall provide written notice pursuant to this subsection by certified mail.

b. ~~The water plan is only required to~~ shall indicate the area within two miles of the city which the ~~rural water~~ district or association intends to serve within the next three years. Upon request, the city or city utility shall provide a district or association with a map of the city limits that indicates areas that are currently provided water service by a city utility or enterprise.

c. ~~If the city fails to respond to the rural water district's water plan within ninety seventy-five days of receipt of the plan, the rural water district or association may provide service in the area designated in the plan. The city may inform the rural water district or association within ninety seventy-five days of receipt of the plan that the city requires additional time or information to study the question of providing water service outside the limits of the city. If additional time or information is required, the city shall respond to the rural water district's plan by certified mail within one hundred eighty sixty-five days of receipt of the plan.~~

d. (1) ~~In responding to the plan, the city may affirmatively waive its right to provide water service within the areas designated for water service by the rural water district, or the city may reserve the right to provide water service in some or all of the areas which the rural water district or association intends to serve.~~

(2) (a) ~~If the city reserves the right to provide water service, the city shall provide the district or association with a copy of the city's water plan relating to the city's intent and ability to provide water service to such an area.~~

(b) ~~If the city reserves the right to provide water service within some or all of the areas which the rural water district or association intends to serve, the city shall provide service within four three years of receipt of the water plan submitted under paragraph “a”. This section does not preclude a city from providing water service in an area which is annexed by the city.~~

(c) ~~If the city reserving the right to provide service fails to provide service within three years of receipt of the water plan submitted under paragraph “a”, the city waives its right to provide water service and shall provide notice to the district or association by certified mail and the district or association may provide service within the area of the water plan submitted under paragraph “a”. If the city fails to provide notice to the district or association, the district~~

or association may provide service in accordance with this paragraph, regardless of whether the district or association has received such notice.

(3) If the district or association fails to provide service within three years after a city waives the right to provide water service under this paragraph “d”, the district or association shall provide notice to the city by certified mail and the city may provide service within the area of the water plan submitted under paragraph “a”. If the district or association fails to provide notice to the city, the city may provide service in accordance with this paragraph, regardless of whether the city has received such notice.

(4) For purposes of this paragraph “d”, “provide water service” and “provide service” mean to deliver water in sufficient quantity and quality to meet customer demand. The department of natural resources shall determine whether such service meets customer demand, as provided under section 455B.174.

Sec. 3. Section 357A.2, Code 2014, is amended by adding the following new subsection:

NEW SUBSECTION. 5. This section does not preclude a city from providing water service in an area which is annexed by the city pursuant to section 357A.21.

Sec. 4. Section 357A.21, Code 2014, is amended to read as follows:

357A.21 Annexation of land by a city — mediation — arbitration.

1. A water district organized under this chapter, chapter 357, 499, or 504 or association shall be fairly compensated for losses resulting from annexation. The governing body of a city or water utility and the board of directors or trustees of the water district or association may agree to terms which provide that the facilities owned by the water district or association and located within the city shall be retained by the water district or association for the purpose of transporting water to customers outside the city.

2. If an agreement is not reached under subsection 1, the governing body of the city or water utility or the board of directors or trustees of the district or association may request mediation pursuant to chapter 679C. The governing body or board requesting mediation shall be responsible for the costs of the mediation. A mediation committee shall be established if a governing body or board requests mediation pursuant to this subsection. The mediation committee shall consist of one member of the governing body of the city or the governing body’s designee, one member of the board of directors or trustees of the district or association, as applicable, and one disinterested member chosen by the other two members. A list of qualified mediators may be obtained from the American arbitration association, the public employment relations board established pursuant to section 20.5, or a recognized mediation organization or association.

3. If an agreement is not reached within ninety days, the issues may be submitted to arbitration. If submitted, an arbitrator shall be selected by a committee which includes one member of the governing body of the city or its designee, one member of the water district’s or association’s board of directors or trustees or its designee, as applicable, and a disinterested party selected by the other two members of the committee. A list of qualified arbitrators may be obtained from the American arbitration association or other recognized arbitration organization or association.

Sec. 5. NEW SECTION. 388.11 Liability within two miles.

A city or city utility providing water service within two miles of the limits of the city shall not be liable for a claim for failure to provide or maintain fire hydrants, facilities, or an adequate supply of water or water pressure for fire protection purposes in the area receiving water service if such hydrants, facilities, or water are not intended to be used for fire protection purposes.

Approved April 10, 2014